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Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the initial report of Indonesia**

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Indonesia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/IDN/1) at its 6th to 8th meetings (E/C.12/2014/SR.6-8) held on 30 April and 1 May 2014, and adopted, at its 40th meeting held on 23 May 2014, the following concluding observations.

A. Introduction

2. The Committee notes with appreciation the submission of the initial report and the written replies to the list of issues (E/C.12/IDN/Q/1/Add.1). The Committee also welcomes the opportunity to engage with the State party's high level and inter-ministerial delegation and expresses appreciation for the frank and constructive dialogue that it had.

B. Positive aspects

3. The Committee welcomes the State party's ratification of:

(a) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography on 24 September 2012;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 31 May 2012;

(c) The Convention on the Rights of Persons with Disabilities on 30 November 2011;

4. The Committee welcomes the following policy and legislative steps taken by the State party:

(a) The introduction of universal health coverage under the National Health Insurance, which is now effective in seven provinces;

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** Adopted by the Committee at its fifty-second session (28 April-23 May 2014).

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(b) The adoption of Ministry of Public Works No. 14/2010 on Minimum Service Standard in Public Works and Planology;

(c) The adoption of Ministry of Manpower and Transmigration Regulation No. 19/2012 on Terms of Partial Assignment of Work to Third Party Companies;

(d) The adoption of Ministry of Education and Culture Regulation No 81/A mandating elementary schools to include local languages in the school curricula.

C. Principal subjects of concern and recommendations

Application of the Covenant and access to justice for economic, social and cultural rights

5. While noting the information provided by the State party on decisions of the Constitutional Court referring to provisions of the Covenant, the Committee regrets the lack of information on jurisprudence invoking the Covenant before lower courts and administrative instances. The Committee is also concerned that the insufficient number of legal professionals, including lawyers, hinders victims' access to redress (art. 2.1).

The Committee recommends that the State party raise awareness among members of the judiciary and the general public of the Covenant and of the justiciability of economic, social and cultural rights, including through awareness-raising campaigns and the inclusion of human rights in school curricula at all levels. It also recommends that the State party invest in the expansion of training programmes for the legal professions. The Committee requests that the State party include information in its next periodic report on decisions by courts and administrative authorities which give effect to the rights set forth in the Covenant. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

Local laws and regulations

6. The Committee notes with concern that laws and by-laws which discriminate against women and marginalized individuals and groups such as sex workers, and lesbian, gay, bisexual and transgender persons are in force in provinces, districts and autonomous regions, in spite of the review mechanism in place in the State party (art. 2.1).

The Committee urges the State party to:

(a) Review and repeal provisions in local laws and by-laws which have been found to be discriminatory against women and marginalized groups, including those identified by the National Commission on Violence against Women;

(b) Raise awareness of the State party's legal obligations under international human rights treaties among lawmakers and authorities in provinces, districts and autonomous regions;

(c) Strengthen the mechanisms for the review of draft laws and by-laws proposed by decentralized authorities.

National human rights institutions

7. The Committee is concerned that, without the obligation of public bodies to respond to cases submitted by the National Human Rights Commission (*Komnas HAM*), the complaints mechanism established under the 1999 law is ineffective in providing non-judicial redress to victims of human rights violations.

Taking note of the announcement by the delegation of the State party of a review of Law 39/1999 on human rights, the Committee recommends that the State party introduce a mechanism requiring public bodies to respond to cases submitted thereto by *Komnas HAM*.

8. The Committee is concerned that the current administrative arrangement whereby the financial resources of the National Commission on Violence against Women (*Komnas Perempuan*) are managed by the executive power diminishes its independence and efficiency (art. 2.1).

The Committee recommends that the State party grant *Komnas Perempuan* independence in the administration of its resources, in line with the Paris Principles.

Corruption

9. The Committee expresses concern that corruption, which permeates all levels of the State party's administration, (a) reduces the resources available for the promotion of economic, social and cultural rights; (b) has led to violations of human rights in several sectors, including in the extractive industry; and (c) denies redress to victims who face corruption in the judiciary (art. 2.1).

The Committee urges the State party to intensify its effort to combat corruption and related impunity and ensure that public affairs, in law and in practice, are conducted in a transparent manner. It also recommends that the State party raise awareness among politicians, members of Parliament and national and local Government officials of the economic and social costs of corruption, and among judges, prosecutors and the police of the need for strict enforcement of the law.

Non-discrimination

10. The Committee notes with concern that the grounds of discrimination prohibited under Law No. 39/1999 on human rights are not comprehensive. It is also concerned that the law neither defines indirect discrimination nor provides for sanctions in case of violation (art. 2.2).

The Committee calls on the State party to strengthen the legislative protection against discrimination, including through the adoption of a comprehensive framework law, by (a) prohibiting discrimination, including indirect discrimination, on all grounds; (b) providing for the application of special measures to achieve equality, when necessary; and (c) providing for penalties in the case of violation of the legislation as well as accessible remedies and reparation for victims. The Committee refers the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Persons with disabilities

11. The Committee is concerned that the definition of persons with disabilities in Law No. 4 of 1997 does not follow a human rights approach and that the Law does not stipulate the obligation to provide reasonable accommodation. It is also concerned at the little progress made in making public services and facilities accessible for persons with disabilities in spite of the numerous laws and regulations enacted by the State party to that end, thereby maintaining their marginalization in the society (art. 2.2).

The Committee calls on the State party to bring Law No. 4 of 1997 into line with international human rights standards and define the denial of reasonable accommodation as a form of discrimination. The Committee also calls on the State party to amend all legislative provisions which discriminate or lead to discrimination against persons with disabilities.

Moreover, the Committee recommends that the State party adopt a human rights-based policy for the promotion of the rights of persons with disabilities which includes, among others:

(a) Awareness-raising campaigns to eliminate stigma, negative stereotypes and other cultural barriers to their full participation in society;

(b) A timeline for rendering public services and facilities accessible to persons with disabilities;

(c) The introduction of temporary special measures in the fields of education and employment;

(d) The enjoyment of economic, social and cultural rights by all persons with disabilities.

Economic, social and cultural rights in remote areas

12. Acknowledging the challenges posed by the geographical configuration of the State party, the Committee is concerned that the minimum essential levels of economic, social and cultural rights are not guaranteed in remote islands and areas in Papua and other parts of the country, primarily due to unavailability and poor quality of public services, including in education and health. Furthermore, the Committee expresses concern at the lack of access to remedies for violations of human rights and at the lack of comprehensive knowledge of the human rights situation in those areas (art. 2.2).

Recalling that the exercise of Covenant rights should not be conditional on, or determined by, the place of residence, and referring to Law No. 25/2009 on Public Service, the Committee calls on the State party to adopt a human rights-based approach in the implementation of the National Medium-Term Development Plan (RPJMN) for 2015-2019 and to:

(a) Accelerate the delivery of quality public services in remote islands and areas in Papua and other parts of the country, by allocating the necessary human and financial resources, by monitoring that they reach the intended beneficiaries, and by clearly defining the responsibilities of the various levels of Government;

(b) Ensure that judicial remedies and non-judicial institutions, such as the State party's national human rights institutions, are accessible in those areas;

(c) Undertake to collect information on the situation of economic, social and cultural rights of ethnic groups in highlands, remote and border islands and areas, in

collaboration with the national human rights institutions and civil society organizations.

The Committee refers to the State party to its statement on poverty and the Covenant, adopted on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex vii).

Multiple discriminations

13. The Committee is concerned at the situation of several groups who suffer multiple discriminations, including stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters (art. 2.2).

The Committee recommends that the State party adopt targeted policies in the 2015-2019 National Medium Term Development Plan for groups who experience multiple discriminations such as stateless persons and persons without identity documentation, religious communities and other persons displaced by conflicts and natural disasters, which include (a) the facilitation of the issuance of identity documents and birth and civil registration; (b) the provision of services and assistance to displaced persons and returnees; and (c) the provision of the necessary mental health services in post-conflict areas.

Gender pay gap

14. The Committee is concerned about the considerable gender pay gap in the State party due to the concentration of women in lower-paying employment sectors and their underrepresentation in high level positions in the public and private sectors (art. 3).

The Committee recommends that the State party:

(a) Educate men and women about equal career opportunities with a view to promoting their pursuance of education and training in fields other than those traditionally dominated by either sex;

(b) Undertake a survey and classification of work considered as being of equal value;

(c) Promote women's access to high level positions in the public and private sectors, including by implementing temporary special measures, and addressing obstacles to their career advancement, such as sexual harassment in the workplace and traditional gender role stereotypes.

Employment in the formal sector

15. The Committee is concerned at the provisions of Manpower Law No. 13 of 2003 which allow the conclusion of employment agreements to be made orally. The Committee is also concerned that the minimum wage is set at a level which enables a decent living only for the workers. Moreover, the Committee is concerned at the shortage of labour inspectors in the State party (art. 7).

The Committee recommends that the State party:

(a) Amend the provisions of Manpower Law No. 13 of 2003 so as to make written employment agreements compulsory;

(b) Review the method for the establishment of the level of the minimum wage so that it enables a decent living for the workers and their families, in accordance with the provisions of art. 7 of the Covenant;

(c) Increase the number of the labour inspectors and strengthen their capacity to act independently and effectively to combat violations of labour rights.

Conditions of work in the informal economy

16. The Committee is concerned about the lack of just and favourable conditions of work for the two-thirds of the State party's workforce who are employed in the informal economy (art. 7).

The committee recommends that the State party adopt a long-term strategy that involves measures to ensure the just and favourable conditions of workers employed in the informal economy, in accordance with the provisions of the Covenant, which (a) addresses the regulatory obstacles to the creation of companies and employments in the formal economy; (b) facilitates the regularization of workers employed in the informal economy; (c) expands the scope of application of the 2003 Manpower Law and labour inspection to the informal economy.

Domestic workers

17. The Committee is concerned that the 2003 Manpower Law excludes domestic workers, denying them legal protection of their labour rights and that the draft law on domestic workers has been pending for adoption at the Parliament since 1994. The Committee is further concerned at conditions of work of domestic workers who work long hours, are paid under the minimum wage, and are often victims of violence and sexual harassment (art. 7).

The Committee calls on the State party to expedite the adoption of the draft law on domestic workers and to ensure that it provides for:

(a) The same working conditions as other workers covered by the 2003 Manpower Law as regards remuneration, protection against unfair dismissal, occupational health and safety, rest and leisure, limitation of working hours, and social security, among others;

(b) Additional protection in relation to conditions, such as residence with the employer, that render domestic workers vulnerable to forced labour, violence and sexual harassment;

(c) Effective mechanisms for reporting abuse and exploitation which take account of the difficulty for some domestic workers to access telecommunication means;

(d) An inspection mechanism for monitoring the conditions of work of domestic workers.

The Committee also recommends that the State party raise awareness among the population in general of the need to respect the human rights of domestic workers and among law enforcement officials of the applicability of the provisions of Law 23/2004 on Domestic Violence for the prosecution of cases of violence against domestic workers. The Committee recommends that the State party ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

Domestic workers abroad

18. While noting that the State party has concluded bilateral agreements on benefits for migrant domestic workers with several countries, the Committee raises concern about the continuing reports of exploitation and abuse of nationals of the State party employed as domestic workers abroad. The Committee is also concerned at placement fees which are either disproportionally charged against the salary of domestic workers or, when paid by employers, have led to conditions akin to slavery for domestic workers (art. 7).

The Committee urges the State party to:

(a) Regulate the operations of placement agencies, including the imposition of placement fees, so that they do not lead to human rights violations, such as non-payment of wages or contemporary forms of slavery;

(b) Continue to establish agreements with recipient countries with the aim of protection not only of the economic and social rights of domestic workers but also against their exploitation and abuse;

(c) Provide support to victims of exploitation and abuse as well as for the reintegration of returnees;

(d) Address the root causes of migration of domestic workers.

Right to strike for civil servants

19. The Committee is concerned that the right to strike and the right to organize are not recognized for civil servants (art. 8).

The Committee calls on the State party to recognize in law the right to strike of civil servants not performing essential services as well as their right to organize, in line with the provisions of article 8 of the Covenant.

Repression of trade union activities

20. The Committee is concerned at reports of repression of trade union activities, including by the authorities, and at the lack of effective remedies for violations of trade union rights, in spite of the protection of union rights under Law 21/2000 on Trade Unions (art. 8).

The Committee recommends that the State party protect trade union rights and effectively investigate all allegations of violations brought to its attention. In this regard, the Committee recommends that the State party develop the capacity of law enforcement and labour inspection to investigate allegations of repression of union activities, so that they are not construed as a form of defamation of employers.

Social security

21. The Committee is concerned that, while plans for the expansion of the coverage of health insurance are in place, coverage by other existing schemes is primarily limited to those employed in the formal economy. The Committee is concerned that a very small number of workers in the informal economy are covered by the social security programmes, such as JAMSOSTEK. The Committee is further concerned that the State party does not have an unemployment insurance scheme (art. 9).

The Committee recommends that the State party:

(a) Promote the expansion of the coverage by existing social security schemes, including by reviewing eligibility criteria, such as those specified in Presidential Decree No. 111/2013 amending Decree 12/2013 on Health Insurance, so that disadvantaged individuals and groups are not excluded;

(b) Consider the establishment of a social protection floor as envisaged in the ILO recommendation No. 202 (2012) in order to ensure basic benefits for children, persons in active age who are unable to earn sufficient income, persons with disabilities, and other individuals in a disadvantaged situation that would also include existing programmes for workers in the informal economy, such as JAMSOSTEK;

(c) Pursue its efforts towards the establishment of an unemployment insurance scheme.

The Committee refers the State party to its general comment No. 19 (2007) on the right to social security.

Child marriage

22. The Committee is concerned that child marriage is still practiced in the State party. The Committee also regrets the lack of information on relevant legal control (art. 10).

The Committee urges the State party to prevent child marriages, in law and in practice, and to ensure the effectiveness of legal control of child marriage with a view to punishing individuals performing and facilitating child marriages.

Child labour

23. The Committee is concerned about the large number of children involved in labour, including in hazardous work. The Committee is also concerned that measures taken, which in 2014 for instance seek to reach out to 15,000 children, are not commensurate with the extent of the problem which concerns millions of children (art. 10).

The Committee urges the State party to pursue its efforts aimed at combating child labour, including by (a) taking measures and investing resources commensurate with the extent of the problem; (b) ensuring effective labour inspections in the domestic work as well as in agriculture, forestry, hunting and fishery sectors, and holding employers exploiting child labour accountable; (c) providing rehabilitation to victims of child labour; and (d) undertaking awareness-raising campaigns with a view to addressing the social acceptance of the worst forms of child labour.

Violence against women

24. The Committee is concerned at the impunity associated with violence against women in the State party. It is also concerned that the Minimum Standards of Services (MSS) for survivors of violence are not effectively delivered in the State party (art. 10).

The Committee calls on the State party to:

(a) Raise awareness among law enforcement officials and relevant professionals on the criminal nature of violence against women and for the public at large, including through a campaign of zero tolerance to such violence;

(b) Strengthen the legislation on violence against women including by penalizing all forms of sexual violence;

(c) Take the necessary measures for ensuring access to remedies for victims, including in remote areas;

(d) Allocate the necessary financial resources at the provincial and district levels for the effective delivery of the Minimum Standards of Services, and expedite the establishment of shelters for victims of violence;

(e) Improve the institutional coordination and the monitoring of MSS implementation plans.

Female genital mutilation

25. The Committee is concerned that female genital mutilation (FGM) is practiced in the State party. Moreover, while noting the information provided by the State party that a law prohibiting FGM was enacted in 2014, the Committee is concerned that an earlier prohibition of the performance of FGM by medical personnel was reversed by regulation No. 1636/MENKES/PER/XI/2010 (art. 10).

The Committee urges the State party to effectively enforce the prohibition of FGM. The Committee also calls on the State party to raise awareness of the prohibition of FGM and to conduct culturally sensitive education campaigns against FGM.

Water and sanitation

26. The Committee is concerned that, in rural areas, approximately one quarter of the population does not have access to safe drinking water and that open defecation is still widely practiced, in spite of the implementation of the National Policy for Community-Based Water Supply and Environmental Sanitation (arts. 11 and 12).

The Committee calls on the State party to strengthen efforts for the improvement of access to safe and clean drinking water and to improved sanitation, particularly in rural areas. The Committee refers the State party to its general comment No. 15 (2002) on the right to water and to its statement on the right to sanitation (E/C.12.2019/1).

Mining and plantations sectors

27. The Committee expresses concern at violations of human rights in the mining and plantations sectors, including the right to livelihood, the right to food, the right to water, labour rights and cultural rights. It is also concerned that the free, prior and informed consent of affected communities is not always sought in these projects, including under Law 25/2007 on Investment. Moreover, even in cases where consultations of affected communities have taken place, their informed decisions have not been guaranteed.

28. The Committee is concerned at the lack of an adequate monitoring of the human rights and environmental impact of extractive projects during their implementation. In many cases, affected communities have not been afforded effective remedies and have, along with human rights defenders working on these cases, been subject to violence and persecution. Furthermore, it is concerned that these projects have not brought about tangible benefits for local communities (art. 1.2, 2.2, 11).

The Committee calls on the State party to review legislation, regulations and practices in the mining and plantations sectors and:

(a) Guarantee legal assistance to communities during consultations on extractive projects affecting them and their resources with a view to ensuring their free, prior and informed consent;

(b) Ensure that license agreements are subject to monitoring of human rights and environmental impact during the implementation of extractive projects;

(c) Guarantee legal assistance to communities lodging complaints about allegations of human rights violations, thoroughly investigate all allegations of breach of license agreements, and revoke licenses, as appropriate;

(d) Ensure that tangible benefits and their distribution are not left solely to the voluntary policy of corporate social responsibilities of companies, but are also defined in license agreements, in the form of employment creation and improvement of public services for local communities, among others;

(e) Engage in constant dialogue with human rights defenders, protect them from acts of violence, intimidation and harassment, and thoroughly investigate all allegations of reprisals and abuse so as to bring perpetrators to justice.

Land tenure

29. The Committee expresses concern about the large number of land disputes and cases of land-grabbing in the State party. It is also concerned that regulations such as Presidential Regulation 65/2006 on Procurement of Land for Realizing Development for Public Interest render individuals and communities vulnerable to land-grabbing as only 34 per cent of land in the State party is certified. Similarly, the Committee is concerned that court decisions on land cases have been primarily made on the basis of the existence of titles. Furthermore, the Committee expresses concern at the prohibitive cost of titling that has accompanied the settlement of land disputes (arts. 1.2, 2.2 and 11).

The Committee urges the State party to adopt a land policy which (a) establishes an institution tasked with the oversight of settlement of land disputes; (b) promotes settlement approaches that take into account the fact that land titles are not always available; (c) reviews relevant laws and regulations which make individuals and communities vulnerable to land-grabbing; (d) facilitates the titling of land without prohibitive procedural costs; (e) secures the involvement of the national human rights institutions and the civil society.

Forced evictions

30. The Committee is concerned at reports of forced evictions without adequate reparation nor alternative housing, including in the context of development projects. It is also concerned that, under the State party's legislation, evictions may be carried out even if they render tenants homeless (art. 11).

The Committee calls on the State party to bring its legislation on forced evictions into line with international standards, including by (a) ensuring that evictions are only used as a last resort; (b) strictly defining the circumstances and safeguards under which evictions can take place; and (c) ensuring that victims of forced evictions are provided with adequate alternative housing or compensation and have access to effective remedies. The Committee refers the State party to its general comment No. 7

(1997) on forced evictions and to the Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18).

Right to food

31. The Committee is concerned about the significant increase in the price of staple food which has become less and less affordable for the State party's disadvantaged individuals and groups and which aggravates malnutrition in the State party (art. 11).

The Committee recommends that the State party adopt a human rights-based approach to its food policy, including by:

(a) Addressing critical issues to all aspects of the food system, including the production, processing, distribution and consumption of safe food, as well as parallel measures in the fields of health and education, especially in disadvantaged areas; and

(b) Ensuring that activities of the private business sector are in conformity with the right to food.

The Committee draws the attention of the State party to its general comment No. 12 (1999) on the right to adequate food.

Health care system

32. The Committee is concerned that the State party's health care system is not able to meet the demand for health services following the introduction of the Universal Health Insurance. The Committee is also concerned at the disparity in the availability and quality of health care services across provinces and regions in the State party, and is particularly concerned that, in some areas, the lack of HIV preventive and treatment services leads to the spread of HIV (art. 12).

The Committee calls on the State party to expand the capacity of the health care system and improve its quality especially in underserved regions, so as to ensure that the introduction of the Universal Health Insurance leads to the effective realization of the right to health. The Committee also urges the State party to ensure that HIV prevention and treatment are included in the minimum package provided by the primary health care system.

Maternal mortality

33. The Committee expresses concern at the increase in the maternal mortality rate in the State party due, among others, to insufficient sexual and reproductive health services as well as legal and cultural barriers to their access (art. 12).

The Committee calls on the State party to address disparities in the availability and quality of maternal health care services, including by putting into place pre-service training, in-service training, supervision and accreditation of facilities. The Committee also calls on the State party to ensure access to sexual and reproductive health services to unmarried women and teenagers as well as to married women without the consent of spouses.

Mental health

34. The Committee is concerned that mental health services are available only in a few medical institutions in large cities of the State party (art. 12).

The Committee calls on the State party to adopt a national mental health policy aimed at making mental health services available and accessible including by (a) adopting legislation that is in line with international standards; (b) training professionals, including in the application of international principles of mental health assessments; (c) prioritizing the development of culturally appropriate community-based care of persons with psychosocial disabilities; and (d) ensuring that mental health is included in the health insurance programme of the State party.

35. The Committee is concerned at tobacco addiction, which affects almost one third of the State party's population. The Committee also expresses concern at the provisions of Law 35/2009 on Narcotics which among others provide for the compulsory treatment of drug users (art. 12).

The Committee recommends that the State party:

(a) Conduct preventive awareness-raising on the serious health risks associated with smoking and illicit substance abuse, targeting primarily youth and women, including in rural areas;

(b) Enact anti-tobacco legislation which prohibits indoor smoking in public buildings and in the workplace and enforces a comprehensive ban on tobacco advertising, promotion and sponsorship;

(c) Bring Law 35/2009 on Narcotics into line with international human rights standards;

(d) Apply a human rights-based approach to the treatment of tobacco and drug addiction, and provide appropriate health care, culturally sensitive psychological support services and rehabilitation to such persons, including effective drug dependence treatment such as opioid substitution therapy.

The Committee also encourages the State party to ratify the World Health Organization Framework Convention on Tobacco Control.

Primary education, literacy rate and dropout rates among girls

36. The Committee is concerned that the lack of education services or their poor quality in some areas, including cases where teachers do not report to duty, leave the State party with a large number of illiterate persons. It is also concerned that measures taken by the State party, such as the deployment of less qualified teachers in remote areas, perpetuate the discriminatory situation. Moreover, the Committee is concerned at indirect costs borne by parents and at higher drop-out rates among girls (art. 13).

The Committee urges the State party to ensure quality and culturally adequate education, especially in remote areas, including by ensuring that resources invested and programmes such as the operational assistance for schools lead to effective enjoyment of the right to education. The Committee also recommends that the State party ensure that primary education is free of charge and that it take measures, including awareness-raising, to address school dropout among girls. Moreover, the Committee recommends that the State party introduce, in consultation with local communities, education in local languages where appropriate. The Committee refers

the State party to its general comment No. 11 (1999) on plans of action for primary education.

Higher education

37. While noting the process of privatization of higher education, the Committee regrets the lack of information on measures taken to ensure that higher education remains accessible to all (art. 13).

The Committee recommends that the process of privatization of higher education is accompanied by measures for ensuring that it remains equally accessible to all, on the basis of capacity. The Committee refers the State party to its general comment No. 13 (1999) on the right to education.

Masyarakat Hukum Adat

38. The Committee is concerned at the absence of an effective legal protection framework of the rights of *Masyarakat Hukum Adat* due to inconsistencies in relevant legislative provisions (arts. 15 and 2.1).

Referring to the State party's statement that it would make use of relevant principles contained in the United Nations Declaration on the Rights of Indigenous Peoples, the Committee urges the State party to expedite the adoption of the draft law on the rights of *Masyarakat Hukum Adat* and ensure that it:

(a) Defines *Masyarakat Hukum Adat* and provides for the principle of self-identification, including the possibility to self-identify as indigenous peoples;

(b) Effectively guarantees their inalienable right to own, develop, control and use their customary lands and resources;

(c) Define strong mechanisms for ensuring the respect of their free, prior and informed consent on decisions affecting them and their resources, as well as adequate compensation and effective remedies in case of violation.

The Committee also recommends that the State party undertake to harmonize existing laws according to the new law on the rights of *Masyarakat Hukum Adat* and ratify the ILO Convention on Indigenous and Tribal Populations, 1989 (No. 169).

39. The Committee is concerned at provisions of recently adopted Law No. 18/2013 on Prevention and Eradication of Forest Destruction as well as other laws in force in the State party which contravene the Decision 35/PUU-X/2012 of the Constitutional Court on the right of ownership of customary forests by *Masyarakat Hukum Adat*. It is further concerned that, while the State party has granted concessions on forested land to develop palm oil plantations, members of *Masyarakat Hukum Adat* have reportedly been arrested on the basis of the Law No. 18/2013 (arts. 15 and 1.2).

The Committee recommends that, as a priority for the implementation of the Plan of Action of the Joint Agreement for the Acceleration in the Determination of Forest Regions, the State party:

(a) Amend all legislative provisions which are incompatible with the Constitution Court Decision 35/PUU-X/2012, including those contained in the Law 18/2013 on Prevention and Eradication of Forest Destruction, and take steps for the review of decisions against members of *Masyarakat Hukum Adat* based thereon; and

(b) Identify and demarcate customary lands and forests, resolve disputes thereon, in consultation with representatives of *Masyarakat Hukum Adat* and the national human rights institutions.

Languages

40. The Committee is concerned that a number of languages in the State party are at risk of disappearance, in spite of the measures taken by the Language Development Agency (art. 15).

The Committee recommends that the State party pursue efforts aimed at the preservation of endangered languages, including by promoting their use and by documenting them. In this regard, the Committee recommends that the State party invest resources for the effective implementation of Ministry of Education and Culture Regulation No. 81/A of 2013 on the inclusion of the teaching of local languages in the primary school curricula, especially as it pertains to endangered languages.

D. Other recommendations

41. **The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

42. **The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, particularly among parliamentarians, public officials, judicial authorities and civil society organizations, and to inform the Committee in its next periodic report on the steps taken to implement them.**

43. **The Committee encourages the State party to engage civil society organizations in constructive cooperation in the process of preparation and submission of its next periodic report.**

44. **The Committee requests the State party to submit its second periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 May 2019.**